

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

MERCY FLIGHTS, INC., *an Oregon
Nonprofit corporation,*

No. 1:17-cr-01760-CL
ORDER

Plaintiff,

v.

COUNTY OF JOSEPHINE, *an Oregon
Political subdivision,* AMERICAN
MEDICAL RESPONSE NORTHWEST,
INC., *a Colorado corporation,*

Defendants.

AIKEN, District Judge.

Magistrate Judge Mark Clarke filed his Findings and Recommendation (“F&R”) (doc. 42) on March 15, 2019 recommending that plaintiff’s Motion for Summary Judgment (doc. 23) be GRANTED and defendants’ Motions for Summary Judgment (docs. 26 and 29) be DENIED. This case is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

No objections have been timely filed. Although this relieves me of my obligation to perform a *de novo* review, I retain the obligation to “make an informed, final decision.” *Britt v. Simi Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir.

1983), *overruled on other grounds*, *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121–22 (9th Cir. 2003) (*en banc*). The Magistrates Act does not specify a standard of review in cases where no objections are filed. *Ray v. Astrue*, 2012 WL 1598239, *1 (D. Or. May 7, 2012). Following the recommendation of the Rules Advisory Committee, I review the F&R for “clear error on the face of the record[.]” Fed. R. Civ. P. 72 advisory committee’s note (1983) (citing *Campbell v. United States District Court*, 501 F.2d 196, 206 (9th Cir. 1974)); *see also United States v. Vonn*, 535 U.S. 55, 64 n.6 (2002) (stating that, “[i]n the absence of a clear legislative mandate, the Advisory Committee Notes provide a reliable source of insight into the meaning of” a federal rule).

Having reviewed the file of this case and Magistrate Judge Clarke’s order, I find no clear error. Thus, I adopt Magistrate Judge Clarke’s F&R (doc. 42) in its entirety. Accordingly, for the reasons set forth in the F&R, plaintiff’s Motion for Summary Judgment (doc. 23) is GRANTED and defendants’ Motions for Summary Judgment (docs. 26 and 29) are DENIED. The Court declares that Josephine County Ordinance 2017-007 is preempted by the Airline Deregulation Act as it applies to Mercy Flights, Inc.’s ground-leg transport of its critical care air transport services. Josephine County is hereby enjoined from prosecuting plaintiff on the basis of the Ordinance and plaintiff’s ground-leg transport conduct within the county.

This case is dismissed.

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IT IS SO ORDERED.

Dated this 14 day of May 2019.

Ann Aiken
Ann Aiken
United States District Judge